

tion of the cam and roller with the plunger, appear to be new with this invention. These claims, therefore, appear to be valid. The defendants' machines have the movable slide to carry the pile of blanks to the proper position under the pickers, the falling pickers, and the conveyor arranged under the table supporting the gum-box; they also have the cam and roller pressing the support of the envelope against the plunger, instead of the plunger against it, to press it. The support is the equivalent of the plunger for this purpose. Therefore, the defendants are found to infringe these three claims by the use of the machines made during the life of the patent in violation of the rights of the inventor; and it appears that they would continue the use if not restrained.

It is claimed that the inventor so conducted himself, by seeing machines similar to those of the defendants made without claiming that they infringed his patent, that neither he nor the oratrix, as his personal representative, could have any equitable right to restrain their use. It does not appear, however, that he led the defendants into any expenditure or course of conduct by his silence when he ought to have spoken which they would not have made or followed if he had spoken. The fact of the patent was open to them, as well as known to him. They could respect it, or take the risk of having what they did turn out to be an infringement. They chose the latter course, and he does not appear to have been responsible for their choice. The oratrix appears to be entitled to an injunction to restrain the use of so much of these machines as were infringements when they were made. *Crossley v. Derby Gas-light Co.* Webst. Pat. Cas. 119; 4 Law Jour. (N. S.) Ch. pt. 1, p. 25; *American, etc., Co. v. Sheldon*, 18 Blatchf. 50; [S. C. 1 FED. REP. 870;] Curt. Pat. § 436. The right to an account for past infringement follows.

Let there be a decree that the first, second, and tenth claims of the patent are valid and have been infringed, and for an injunction against the use of such parts of machines as were made in violation of those claims, and for an account, with costs.

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REAY v. BERLIN & JONES ENVELOPE CO.

(Circuit Court, S. D. New York. January 23, 1884.)

PATENT FOR INVENTION.

*Reay v. Raynor*, ante, 308, followed.

In Equity.

*Arthur v. Briesen*, for oratrix.

*S. D. Law*, for defendant.

WHEELER, J. This suit is brought upon the same patent, in the same manner, and involving the same questions as to its mainte-

nance, as that of *Reay v. Raynor*, ante, 308. The cause is upheld for the same reasons, and the patent is sustained to the same extent, upon the same grounds, as in that case. Only the second, fourth and fifth claims are said to be infringed here. Of these only the second is held to be valid. The defendant appears to infringe this claim. Their machine has the arrangement of the table over the conveyor so that the blanks are held even and in place by the table while being carried by the conveyor to the creasing box, as described in that claim.

Let a decree be entered for the oratrix accordingly.

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BELL and others v. UNITED STATES STAMPING Co.

(Circuit Court, S. D. New York. January 24, 1884.)

1. PATENTS FOR INVENTIONS—INFRINGEMENT.

It is no answer to an action for infringement of a patent, that all the parts of the patent were known before, if they were not known in that connection and arrangement.

2. SAME.

Letters patent No. 140,619, dated July 8, 1873, granted to John B. Firth, for an improvement in cake-pans, and now owned by the plaintiff, held, to be infringed by letters patent No. 255,045, dated March 14, 1882, and granted to Joseph Smith for a patty-pan.

In Equity.

*George H. Fletcher*, for orators.

*J. L. N. Hunt* and *C. R. Ingersoll*, for defendant.

WHEELER, J. This suit is upon letters patent No. 140,619, dated July 8, 1873, granted to John B. Firth, for an improvement in cake-pans, and now owned by the orators. The defenses are, want of novelty in the invention, want of invention in the patent, and non-infringement. The patent is for a cluster of cake-pans united to a plate having an aperture for each pan by a double-seam joint formed from the rim of the cup turned outward and the edge of the plate about the aperture turned upward, on the upper side of the plate. The defendants make and sell similar clusters, but the double-seam joint is formed of the rim of the pan turned outward and then inward, and of the edge of the plate turned downward on the underside of the plate, according to letters patent 255,045, dated March 14, 1882, and granted to Joseph Smith, for a patty-pan. The principal things of this sort preceding Firth's patent were clusters of cups fastened to frames, pans riveted through the bottom to a plate, pans put through apertures in a plate with their rims turned out flat and riveted to the plate; pits in steam-tables and in the bottoms of wash-boilers, fastened by double-seamed and soldered joints; and double-seam joints in use generally among wares of these kinds. This patented